

PROPOSAL INSTRUCTIONS

**For Merchandise, Food and Beverage and Kennel Services
within Carlsbad Caverns National Park**

CC-CAVE001-08

Department of the Interior

National Park Service

PROPOSAL INSTRUCTIONS

1) Response Requirements for Submission of Proposal

- a) This Prospectus is issued under the authority of 36 CFR Part 51 (incorporated by reference herein). In the event of any inconsistency between the terms of this Prospectus and 36 CFR Part 51, 36 CFR Part 51 will control. The Service presumes that all persons that submit a proposal in response to this Prospectus are informed of the provisions of 36 CFR Part 51.
- b) Proposals must be received by the due date and time shown on the inside cover of this Prospectus.
- c) Only an Offeror submitting a responsive proposal is eligible to be awarded the new Concession Contract. A responsive proposal means a timely submitted proposal that is determined by the Director as agreeing to all of the minimum requirements of the new Concession Contract and Prospectus and as having provided the information required by the Prospectus. The minimum requirements for the new Concession Contract are identified in Part A of the Proposal Package.
- d) Information “required by the Prospectus” refers to information that is expressly required by the Prospectus and that is material, as determined by the Service, to the effective evaluation of a proposal under the applicable selection factor.

2) Form in Which Proposal Must be Submitted

- a) Offerors must follow the format provided in the Proposal Package, including in its entirety without alteration a signed “Offeror’s Transmittal Letter,” in competing for the concession opportunity. Failure to submit the Offeror’s Transmittal Letter without alteration (except for filling in the indicated blanks) and a completed copy of Part A of the Proposal Package will make your proposal non-responsive.
- b) Please number each page and section in your completed proposal. Add information to your proposal only to the extent that it is necessary and relevant to respond to the factor. Each page should have a heading identifying the selection factor and subfactor to which the information contained on the page responds. Stay within the organizational framework in the Proposal Package. However, in assessing an offeror’s response to a given selection factor, NPS may consider relevant information contained elsewhere in the proposal.

3) Submission Protocol

- a) Submit six (6) identical hard copies and one electronic copy, identical to the hard copy. In order to facilitate discussion and review of proposals among evaluation panel members, the electronic copy must be in a format that can be shared, copied, and passed easily. Microsoft Office programs or an Adobe PDF electronic version that allows for copying and pasting of text using Adobe Reader software is acceptable. However, you

must provide all financial spreadsheets in Microsoft Excel. In the event of a discrepancy between the electronic copy and the hard copies, information on the hard copies will control.

- b) Enclose copies in a sealed envelope with the following marked on the envelope:
 - (1) "CONCESSION PROPOSAL, MAILROOM DO NOT OPEN"
 - (2) The due date specified by the Service in the Prospectus for receipt of the proposal.
 - (3) The name and address of the Offeror.
- c) The Service, at the appropriate address, must receive proposals by the time and date shown on the front page of this Prospectus.

4) Proposals Considered Public Document

- a) All proposals submitted in response to this Prospectus may be disclosed by the Department of the Interior to any person, upon request, to the extent required or authorized by the Freedom of Information Act.
- b) If you believe that your proposal contains trade secrets or confidential commercial and financial information exempt from disclosure under the Freedom of Information Act (5 USC 552), mark the cover page of each copy of the proposal with the following legend:

"The information specifically identified on pages of this proposal constitutes trade secrets or confidential commercial and financial information that the Offeror believes to be exempt from disclosure under the Freedom of Information Act. The Offeror requests that this information not be disclosed to the public, except as may be required by law."

You must specifically identify what you consider to be trade secret information or confidential commercial and financial information on the page of the proposal on which it appears, and you must mark each such page with the following legend:

"This page contains trade secrets or confidential commercial and financial information that the Offeror believes to be exempt from disclosure under the Freedom of Information Act, and which is subject to the legend contained on the cover page of this proposal."

- c) Information so identified shall not be made public by the Service except in accordance with law.

5) Questions

If you do not understand something in this Prospectus, you must submit your questions in writing along with a floppy disk or CD (compact disc) containing the questions in an electronic format that allows the Service to copy the questions to Microsoft Word, to the contact person noted on the cover of the Prospectus, no later than the date specified on the cover of the Prospectus. Your questions must specify the section and page number of the Prospectus that is the subject of your inquiry. The Service will respond to your question in

writing and will provide the question and response to all potential Offerors who have requested a Prospectus. Questions submitted after this date may not be answered. Because the Service must provide equal information to all Offerors, there must be sufficient time allowed to inform all interested parties of such questions and answers.

6) Evaluation of Proposals

- a) The Director will apply the principal selection factors and secondary factors as set forth in 36 CFR Part 51 by assessing each timely proposal under each of the selection factors on the basis of a narrative explanation discussing any subfactors when applicable and other supporting information.
- b) For each selection factor, the Director will assign a score that reflects the determined merits of the proposal under the applicable selection factor and in comparison to the other proposals received, if any.

The first four principal selection factors will be scored from zero to five. The fifth principal selection factor will be scored from zero to four (with a score of one for agreeing to the minimum franchise fee contained in the Prospectus). Secondary selection factor 1 will be scored from zero to three, secondary selection factor 2 will be scored from zero to two. The Director then will assign a cumulative point score to each proposal based on the assigned score for each selection factor.

- c) Principal Selection Factors. The five principal selection factors are:

Principal Selection Factor 1. The responsiveness of the proposal to the objectives, as described in the Prospectus, of protecting, conserving, and preserving resources of the park area; (0-5 points)

Principal Selection Factor 2. The responsiveness of the proposal to the objectives, as described in the Prospectus, of providing necessary and appropriate visitor services at reasonable rates; (0-5 points)

Principal Selection Factor 3. The experience and related background of the Offeror, including the past performance and expertise of the Offeror in providing the same or similar visitor services as those to be provided under the concession contract; (0-5 points)

Principal Selection Factor 4. The financial capability of the Offeror to carry out its proposal; (0-5 points)

Principal Selection Factor 5. The amount of the proposed minimum franchise fee, if any, and/or other forms of financial consideration to the Director. However, consideration of revenue to the United States will be subordinate to the objectives of protecting, conserving, and preserving resources of the park area and of providing necessary and appropriate visitor services to the public at reasonable rates. (0-4 points)

- d) Secondary Selection Factors. The secondary selection factors are:

Secondary Selection Factor 1. The quality of the Offeror's proposal to conduct its operations in a manner that furthers the protection, conservation and preservation of

the park area and other resources through environmental management programs and activities, including, without limitation, energy conservation, waste reduction, and recycling. (0-3 points)

Secondary Selection Factor 2. Marketing Carlsbad Caverns. (0-2 points)

7) Process of Selecting the Best Proposal

The Director will select the responsive proposal with the highest cumulative point score as the best proposal. If two or more responsive proposals receive the same highest point score, then the Director will select as the best proposal (from among the responsive proposals with the same highest point score) the responsive proposal that the Director determines on the basis of a narrative explanation will, on an overall basis, best achieve the purposes of 36 CFR Part 51. Consideration of revenue to the United States in this determination and in scoring proposals under Principal Selection Factor 5 will be subordinate to the objectives of protecting, conserving and preserving resources of the park area and of providing necessary and appropriate visitor services to the public at reasonable rates (36 CFR § 51.16(c)).

8) Preferred Offeror Determinations

National Park Service Concessions Management Improvement Act

The National Park Service Concessions Management Improvement Act of 1998, 16 USC §§ 5951-5966, 112 Stat. 3503, PL 105-391 includes a preference for a preferred Offeror to the award of a qualified concession contract.

Under the provisions of 36 CFR Part 51, Subparts E and F, the Service has determined that this is not a qualified concession contract, and therefore, no preferred Offeror for this contract exists.

9) Congressional Review Process

Concession contracts issued for a term of more than ten years, or when the annual gross receipts are anticipated to exceed \$5,000,000 are required by law to be submitted to Congress for sixty days before they may be awarded. Annual gross receipts are not anticipated to exceed \$5,000,000. Therefore, the new concession contract will not be submitted to Congress.

10) Cautions to Offerors about Submission and Evaluation of Proposals

- a) All information regarding this Prospectus will be issued in writing. No Service representative or other government official is authorized to make substantive oral representations relating to this matter, and no Offeror should rely on any oral representations made by government officials with respect to this transaction.
- b) The Proposal Package includes the selection factors to be used by the Service to evaluate proposals. Under each factor, the Service identifies subfactors to ensure that all elements of the selection factor are considered. You, the Offeror, should ensure that you fully address all of the selection factors and related subfactors.

- c) This Prospectus and related documents reflect the views and objectives of the Service with regard to the proposed concession operation. Should you believe any statement in the Prospectus to be inaccurate, you must submit comments to the Service in writing, no later than the question deadline specified in section 5 above. Send your comments to the office named in the cover of this Prospectus for the receipt of proposals.
- d) The information provided in this Prospectus, including the Appendices, is provided to allow Offerors to understand the operations and terms of the Draft Contract. Offerors are encouraged to thoroughly review all information and required submittal documents before beginning to prepare a proposal.
- e) A proposal to expand the scope of investment, facilities, and/or services beyond those called for in this Prospectus will not be considered in the evaluation of proposals.
- f) A proposal to provide direct or indirect monetary or other benefits to the Service or government not within the scope or requirements of the contract will not be considered in the evaluation of proposals.
- g) If you propose to make any financial commitments and considerations in response to any selection factor, your proposal will be closely reviewed and analyzed against your financial statements and supporting documents with appropriate review of feasibility. Such documents reviewed and analyzed will include but not be limited to the Business Organization and Credit Information, pro forma income statements, audited financial statements and balance sheets contained in your proposal.
- h) The proposal and related materials submitted should reflect the entire proposal you are making. The Service will consider your written submission as your full and final proposal in response to the Prospectus, and will make its selection based on the written information you have submitted, and other appropriate information. Do not assume that the Service knows anything about you or your proposal. Do not assume that any information about you or your proposal, any previous correspondence or previous submissions are in the possession of or will be considered by the Service. This is true even if you are the Existing Concessioner or have operated another concession within the Area or National Park System.
- i) The attached Draft Contract and its exhibits set forth the terms and conditions under which the concession operation is to be conducted. The Director may amend a Prospectus and/or extend the submission date prior to the proposal due date. The Director also may cancel a solicitation at any time before the award of the concession contract if the Director determines in her discretion that this action is appropriate in the public interest. No Offeror or other person will obtain compensable or other legal rights as a result of an amended, extended, canceled, or reissued solicitation for this concession contract. (36 CFR § 51.11).
- j) Except as provided under 36 CFR § 51.47, the terms, conditions and determinations of the Prospectus and the terms and conditions of the Draft Contract as described in the Prospectus, including, without limitation, its minimum franchise fee, are not final until the concession contract is awarded.

- k) The Director may request from any Offeror who has submitted a timely proposal a written clarification of its proposal. Clarification refers to making clear any ambiguities that may have been contained in a proposal, but does not include amendment or supplementation of a proposal. An Offeror may not amend or supplement a proposal after the submission date unless requested by the Director to do so, and unless the Director provides all Offerors that submitted proposals a similar opportunity to amend or supplement their proposals.
- l) The selected Offeror must execute the concession contract promptly after the selection of the best proposal and within the time period specified by the Director. If the selected Offeror fails to execute the concession contract within the time period specified by the Director, the Director will select another responsive proposal for award of the concession contract, or will cancel the selection and may resolicit a new concession contract.
- m) Document delivery services, including overnight delivery, to some areas may not provide true overnight delivery. Offerors are encouraged to insure the timely submittal of proposals by contacting the delivery service of their choice regarding delivery availability for the specific location identified on the front page of this Prospectus.
- n) The Service, in accordance with 36 CFR Part 51, may include as terms of the new concession contract, appropriate elements of the proposal selected for award of the concession contract, including, without limitation, investments, facilities, services, and other commitments that are contained in the successful proposal.
- o) Offerors are responsible for undertaking appropriate due diligence with respect to this business opportunity. All of the statements made in this Prospectus regarding the nature of the business and its likely future are only opinions of the Service. Offerors may not rely on any representations of the Service in this regard.
- p) Unless otherwise expressly stated, the Draft Contract does not permit the provision of visitor services by the concessioner through subconcession or other third party agreements, including management agreements. Accordingly, the entity that is to be the Concessioner under the new concession contract, unless the contract expressly states to the contrary, must have the capability to provide all visitor services under the new concession contract without the assistance of third parties. Joint ventures, partnerships, and other business entities are permitted.